

UPDATED INFORMATIVE DIGEST

Regulation for the AB 118 Air Quality Improvement Program Guidelines

Sections Affected: Adoption of new sections 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, and 2359, new chapter 8.2, title 13, California Code of Regulations.

Background:

On October 14, 2007, Governor Schwarzenegger signed into State law the “California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007” (AB 118; Statutes of 2007, Chapter 750). That law provides approximately \$200 million in annual incentive funding to fund air quality and greenhouse gas improvement projects and develop and deploy technology and alternative and renewable fuels. Those incentive funds are generated from increases in smog abatement, vehicle registration, and vessel registration fees.

The bill creates the AQIP, a voluntary incentive program administered by ARB which will provide about \$50 million in annual funding through 2015. Health and Safety Code (HSC) section 44274(a) requires ARB to develop guidelines to implement the AQIP. The regulation fulfills this requirement.

AB 118 also creates 2 other new incentive programs: the Alternative and Renewable Fuel and Vehicle Technology Program administered by the California Energy Commission (Energy Commission) to fund alternative and renewable fuels and vehicle technologies to help attain California’s climate change policies; and the Enhanced Fleet Modernization Program which expands the Bureau of Automotive Repair’s (BAR) voluntary vehicle retirement program. The regulation does not address either of these programs. The ARB, the Energy Commission, and BAR are working in coordination to develop and implement these incentive programs. Guidelines for these programs are being developed through separate rulemakings.

The goal of the AQIP is to fund air quality improvement projects (including vehicle and equipment projects) research on the air quality impacts of alternative fuels and advanced technology vehicles, and workforce training. AB 118 specifies 8 broad project types which are eligible for AQIP funding:

- On-road and off-road equipment projects.
- Projects to mitigate off-road gasoline exhaust and evaporative emissions.
- Research on the air quality impact of alternative fuels.
- University of California research to increase sustainable biofuels production and improve collection of biomass feedstock.
- Lawn and garden equipment replacement.
- Medium-duty and heavy-duty vehicle/equipment projects including lower emission school buses, electric or hybrid vehicles/equipment, and regional air quality programs in the most impacted parts of California.

- Workforce training related to advanced technology to reduce air pollution.
- Projects to identify and reduce emissions from high-emitting light-duty vehicles.

AB 118 directs ARB to evaluate projects based on potential reduction of criteria or toxic air pollutants, cost-effectiveness, contribution to regional air quality improvement, and ability to promote the use of clean alternative fuels and vehicle technologies.

The AQIP complements California's existing portfolio of incentive programs, including the Carl Moyer Memorial Air Quality Standards Attainment Program, the Goods Movement Emission Reduction Program, and Lower Emission School Bus Program. ARB staff is building upon the experience gained in running these programs, and implementing the AQIP in a coordinated manner with these programs.

Description of Regulatory Action:

At the Board's April 24, 2009 public hearing for the proposed regulations, the Board adopted the regulation, summarized below as it was noticed on March 10, 2009 in the California Notice Register and as set forth in the Staff Report: Initial Statement of Reasons released on March 6, 2009.

As mentioned above, Health and safety Code section 44274(a) requires ARB to develop guidelines to implement the AQIP. The approved regulation (Guidelines) fulfills this requirement. These regulatory Guidelines establish the overall administrative requirements for the program through 2015 and apply to all funding years. These Guidelines will be paired with the AQIP Funding Plan – which is updated and approved by the Board annually – to direct implementation of the AQIP. The Funding Plan describes specific projects eligible for funding that fiscal year and details project implementation requirements. While these Guidelines are administrative in nature and will have no impact on the California economy, staff expects funded projects will have a positive impact on participating California businesses and an undefined positive impact on job creation. The Board also approved the Fiscal Year 2009-10 Funding Plan on April 24, 2009.

Funding Plan

The Funding Plan is each fiscal year's blueprint for expending AQIP funds appropriated to the ARB in each year's State budget and are developed in accordance with the requirements established in the AQIP Guidelines. The Funding Plan will be approved by the Board annually. The Funding Plan describes the project categories ARB intends to fund and funding targets for each category, along with the justification for these decisions. The approved Guidelines establish the process by which the Funding Plan is developed along with required minimum components, including: eligible projects, funding targets, policy and technical justifications, and requirements to ensure surplus emission reductions.

Project Solicitations

The Guidelines establish the requirements for issuing project solicitations. The competitive solicitations will be issued for each of the projects in the Board-approved Funding Plan. These solicitations will include all the programmatic details potential grantees need to apply for funds. The Guidelines define the elements that must be included in each project solicitation, including: project eligibility and administration requirements, application requirements and deadlines, project evaluation and selection criteria, and match funding requirements.

Program Administration

The Guidelines establish the minimum administration requirements for all AQIP projects. The Guidelines require that project administration responsibilities be clearly defined in the Funding Plan, project solicitations, project applications, and project grant agreements.

Other Guidelines provisions include compliance with the AB 118 Air Quality Guidelines for the Air Quality Improvement Program and the Alternative and Renewable Fuel and Vehicle and Technology Program (adopted by the Board in September 2008), oversight and accountability through program reviews and fiscal audits, and reporting to the Board beginning in 2010 and at least biennially thereafter.

After the Board hearing, ARB staff made non-substantial changes in enumeration to the regulation as authorized under Government Code section 11346.8(c) and section 40 of title 2 of the California Code of Regulations. These changes are described in the Final Statement of Reasons.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations comparable to the regulation. The regulation defines the AQIP's structure and establishes minimum program administrative and implementation requirements. This regulation only imposes requirements on ARB for the evaluation of projects funded through the AQIP.